



**U. S. Department of Justice**

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**April 19, 2023**

Michael E. Gans, Clerk  
Eighth Circuit Court of Appeals  
111 South 10th Street, Room 24.329  
St. Louis, Missouri 63102

Re: *United States v. Kenneth Scott McKee, et al.*  
Case No. 20-3671

Dear Mr. Gans:

Today the Supreme Court issued an opinion in *Turkiye Halk Banksia A.S., aka Halkbank, v. United States*, No. 21-1450 (April 19, 2023), that effectively resolves the issue in this appeal. In *Halkbank*, the Court considered whether any statute besides 18 U.S.C. § 3231 defines a federal court's subject-matter jurisdiction in a criminal case. The Court rejected the petitioner's contention that the Foreign Sovereign Immunities Act implicitly divested federal courts of criminal jurisdiction over foreign states or their instrumentalities. (Op., at 3-4.) In doing so, the Court reiterated that § 3231's "sweeping" grant of subject-matter jurisdiction over federal crimes ended the jurisdictional inquiry absent an express statutory exception to the contrary. (Op., at 3.)

The Supreme Court's reasoning exposes the district court's error in this case. The Court held that "Halkbank cannot and does not dispute that § 3231's text as written encompasses the offenses charged in the indictment." (Op., at 3.) The same is true here, as the charged crimes are offenses against the United States that contain no express restrictions on the district court's jurisdiction. (See Gov't Brf., at 26-27.) More importantly, the *Halkbank* Court rejected the petitioner's attempts "to graft an atextual limitation onto § 3231's broad jurisdictional grant" through the FSIA's grant of immunity in civil cases. (Op., at 3-4.) The Court likewise rejected petitioner's attempt to extend a prior statutory grant of jurisdiction over civil admiralty cases to limit a criminal prosecution. (Op., at 4.)

As the Government previously demonstrated, when Congress intends a federal criminal statute to be limited geographically to account for federal jurisdiction, it does so expressly. (*See* Gov’t Reply Brf., at 8.) This includes crimes that expressly depend upon the admiralty jurisdiction of the United States. *See, e.g.*, 18 U.S.C. §§ 2272, 2273, 2276 (applying “upon the high seas or any other waters within the admiralty and maritime jurisdiction of the United States”). The statutes charged in this case do not contain such express jurisdictional limitations, and *Halkbank* makes it abundantly clear that this Court should reject the district court’s erroneous insertion of non-textual requirements and reverse.

Respectfully submitted,

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*/s/ Brian P. Casey*

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### **CERTIFICATE OF SERVICE**

I hereby certify that on April 19, 2023, the foregoing was electronically filed with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. A copy will be served on participants in the case by the CM/ECF system or by U.S. Mail, postage prepaid.

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